

GENERAL ORDER**456.00**

SUBJECT: PHOTO LINEUP AND SHOW-UP PROCEDURES			
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- V. FILING WITH STATE ATTORNEY

DISCUSSION:

The purpose of this order is to establish guidelines for the administration of photo lineups and show-ups, in an effort to promote accurate and reliable eyewitness identification and to minimize the possibility of erroneous identifications. This order shall apply to all agency law enforcement personnel.

DEFINITIONS:

PHOTO LINEUP OR ARRAY – A group of photographs shown to an eyewitness for the purpose of identifying or eliminating suspects.

SHOW-UP – A procedure for identification or elimination of a suspect where an eyewitness is brought to a suspect's location.

PROCEDURE:**I. CREATING THE PHOTO LINEUP**

- A. A photo lineup or array should consist of a minimum of six photographs. Include only one photo of the suspect and a minimum of five filler photos.
 1. If there are multiple suspects in a case, only one suspect should be included in each lineup.
 2. If there are multiple suspects in a case, each lineup shall contain different filler photos.
 3. If there are multiple eyewitnesses, the suspect's photo shall be placed in a different position in the array for each witness.
- B. All photographs used will be of individuals who are reasonably similar in age, height, weight, and general appearance and are of the same sex and race, in accordance with the witness's description of the suspect.

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C. All photographs used will have the same background and be of the same size and basic composition.

1. No particular photo should stand out in the array
2. Do not mix color and black and white photos
3. No identifying information about the subject should appear on any photo

II. CONDUCTING THE PHOTO LINEUP

A. The photo array created will be placed inside a closed folder which has a written copy of the witness's instructions, as set forth in Section II(B), attached to the front of the folder.

1. An independent administrator who is not involved in the investigation or who is not aware of the suspect's identity will be used to administer the lineup. If an independent administrator is not available, an alternative method as defined in FS 92.70 will be used.
2. If possible, the entire photo lineup identification process, including the verbal instructions, the viewing of the photographs, and the identification or lack thereof should be audio or video recorded.

B. The person administering the lineup should place the closed folder before the witness. Prior to the witness opening the folder, the person administering the lineup should read the below instructions aloud to the witness (in the witness's primary/native language). Have the witness print their name in the space provided attesting you read aloud the instructions. Have the witness sign and indicate the date and time. Do not engage in any additional commentary.

1. You will be asked to view a group of photos of individuals.
2. The person of interest may or may not be in this photo array and the photos are not in any particular order.
3. You should not feel that you have to make identification.
4. Take as much time as you need to look at each photograph.
5. Individuals presented in these photographs may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
6. It is just as important to exclude innocent persons from suspicion as it is to identify the perpetrator.
7. The investigation will continue whether or not identification is made.
8. After viewing all the photographs, if you can make identification, please initial and date the photograph of the person you have identified and close the folder.
9. Since this is an ongoing investigation, you should not discuss this photo lineup or the results.
10. Please open the folder and review the photo array.

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- C. Once the instructions have been read aloud, and the witness begins his or her review, the person administering the lineup should either leave the room or stand behind the witness as the array is being viewed and take all reasonable precautions to avoid giving any unintentional cues to the witness.
- D. In the event of multiple eyewitnesses, separate witnesses and show the photo array to only one witness at a time.
- E. Once the witness has finished viewing the photo array and the folder is handed back, the person administering the lineup will ask if there was a photo of the person observed by the witness. If identification is made, confirm that the witness has initialed and dated the selected photo. If the witness refuses to sign the array, the person administering the lineup shall note the refusal and sign the array accordingly.
- F. The person administering the lineup will not comment on selections or the outcome of the lineup in any way.
- G. Following all photo lineups, and whether or not a positive identification is made, the folder (with the instructions attached), the photo array presented to the witness, and the audio/video recording, will be submitted to the Evidence Unit to be maintained for the criminal case.
- H. Following all photo lineups, and whether or not a positive identification is made, the person administering the lineup shall file a supplemental report which includes:
 - 1. The names of all persons present at the lineup
 - 2. The date, time, and location of the lineup
 - 3. The source of the photographs used
 - 4. Whether an identification was made
 - 5. The words used by the witness in any identification
 - 6. The reason or basis for any deviation from the photo lineup guidelines

III. SHOW-UP

- A. A show-up is the presentation of a suspect to an eyewitness in a short time frame following commission of a crime to confirm or eliminate him or her as the perceived perpetrator. Show-ups are conducted in a contemporaneous time frame and setting with the crime.
- B. When there is reasonable suspicion to believe that a suspect is involved in a crime, the suspect may be temporarily detained, and a show-up conducted, under the following circumstances:
 - 1. Supervisor approval is required to conduct a show-up.

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2. Prior to the show-up, the witness should be able to describe with certainty and confidence the suspect's detailed physical characteristics and location where the incident occurred.
3. The deputy must be able to ascertain the following:
 - a. The witness' opportunity to view the suspect during the alleged incident
 - b. The length of time between the incident and the show-up
 - c. Whether or not the witness was a casual observer or a victim

C. A show-up, under this policy, shall be conducted in the following manner:

1. Witnesses will be transported in a deputy's vehicle to the location of the suspect. All safety precautions will be taken prior to the show-up to protect the witness and surrounding area and to ensure the rights of the detainee.
2. If more than one suspect is detained, the identification should be one at a time. The other suspects should be kept secluded from each other and the witness if at all possible.
3. If there is more than one witness, the witnesses must be separated during the identification procedure. Witnesses must be instructed not to consult with or talk to anyone about their identification before, during, or after the show-up.
4. Witnesses must be provided instructions orally or in writing and documented in a supplemental report.
5. Witnesses will be given the following pre-cautionary instructions prior to the show-up:
 - a. The person presented to the witness may or may not be the perpetrator;
 - b. The witness should not feel compelled to make a positive identification;
 - c. The investigation will continue whether or not a positive identification is made;
 - d. The witness should not discuss any aspect of the show-up or identification process with other witnesses and media contact should be discouraged.
6. Deputies shall avoid saying or doing anything that may influence the witness's identification. Deputies shall also avoid commenting on identification or the outcome of the show-up.
7. Upon completion of the show-up, a sworn recorded statement will be taken from any witness who is able to make a positive identification. This will include a statement indicating the witness' level of confidence in the identification at the time of the show-up.

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8. Suspects may not be detained for any longer than is necessary to complete the show-up and identification unless there is probable cause.
9. If positive identification is made and probable cause is established, deputies will follow appropriate arrest procedures.
10. If the witness is uncertain and/or probable cause cannot be further established, the suspect will be immediately released from detention.
11. Deputies shall document all details leading up to the show-up and the results of the show-up in a supplemental report including a brief explanation, if applicable, why the witness was not able to make identification.

IV. TRAINING

Agency law enforcement personnel shall receive initial and annual refresher training on this policy and these guidelines. Initial training is accomplished using the current training bulletin as part of the FTO curriculum. The training bulletin will be reviewed annually and revised, if needed, and then distributed through the document management system for review and signature.

V. FILING POLICY WITH STATE ATTORNEY

After any revised version of this general order is published, Staff Inspections will provide a copy to the State Attorney's Office.